



TOWN OF BEAUX ARTS VILLAGE

TOWN COUNCIL MINUTES

July 1, 2008

Clemett

Special Council Meeting

Mayor Rose called the meeting to order at 7:00 pm.

PRESENT: Mayor John Rose, Councilmembers Carol Clemett, Steve Eulau, Richard Leider, Aaron Sharp, and Bruce Young.

EXCUSED: None.

STAFF: Clerk-Treasurer Sue Ann Spens, Town Marshal Walter Scott, Water Supervisor Bob Durr.

GUESTS: Hank Heckendorn, Ann Bowen, Tom Stowe, Kris Moore, Dan and Evelyn Vasen, Paula Dix, Julia Morse, Steve Miller.

MINUTES: Councilmember Leider moved to approve the June 12, 2008 minutes as written. Councilmember Young seconded.

Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

WARRANTS: Clerk-Treasurer Spens reminded the Council that July warrants cannot be approved at this Special Meeting and will be presented for approval at the Council's next regular meeting in September.

CLERK'S REPORT:

FIRE CONTRACT WITH BELLEVUE: Clerk-Treasurer Spens reported that she contacted the Bellevue Fire Department (BFD) to discuss the Council's questions about BFD's status as a first responder for Beaux Arts and spoke with Deputy Fire Chief Warren Merritt. She noted that Deputy Chief Merritt explained that BFD Fire Station 1, which serves Beaux Arts, has Emergency Assessment routes that currently focus on the downtown corridor and freeway overpasses and that added emergency assessment routes through the Enatai neighborhood and through Beaux Arts are being considered.

UNUSED STREET ENDS: Clerk-Treasurer Spens reported that she had discussed the issue of unused street ends with Town Attorney Wayne Stewart because the Centennial Park committee would like to consider installing a sport court in that area. She stated that Town Attorney Stewart says that, because the Town actually holds the deed to the rights of way (versus the simple easements that many cities have) there are means for changing the use designation of this property to recreational. Councilmember Clemett will contact the neighboring property owners to see if there are any objections to such a change in the use of the property before we ask Town Attorney Stewart to start such a change process.

SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN: Clerk-Treasurer Spens reported that the Town's Six-Year Transportation Improvement Plan (TIP) for 2009 - 2014 must be reviewed and approved during a public hearing at the September Council meeting.

MARSHAL'S REPORT: Marshal Walter Scott reported that Beaux Arts had no police activity in the last two months. He added that he is keeping an eye on the South Beach parking lot around 11:30pm to make sure there are no parties underway. Councilmember Clemett mentioned that the North Beach parking lot needs attention for the same reason.

WATER REPORT: Water Supervisor Bob Durr reported that a customer's service was shut off for lack of payment but has been restored. He also reported that Bill Beck is working to repair the last fire hydrant with a 4" service line in the area near Boynton.

WABA REPORT: No report.

EMERGENCY PREPAREDNESS: Councilmember Eulau reported that he has identified team leaders in eight of the nine emergency-preparedness districts in Beaux Arts and that three districts has had meetings already. He said that things look to be on target for an October drill. He added that the Town needs to budget to purchase Motorola radios and a portable defibrillator (about \$1250) and to decide where to store them.

STORMWATER SYSTEM: Councilmember Sharp reported that he delivered the executed contract for a review of our existing stormwater system to Thalweg. He added that he helped them with a visual inspection, provided as-builts of the existing system as he had, and made them aware of known problem areas. He hopes to have preliminary information for the Council to review in September.

PUBLIC HEARING: PROPOSED TREE ORDINANCE NO. 358: Mayor Rose recapped the extensive efforts of the Tree Committee, the Planning Commission, and the Council to bring this ordinance to the point of enactment. He then explained that before proceeding to the public hearing, he wanted to be sure the Council was ready to take action on the ordinance tonight and asked for a motion to pass the ordinance.

MOTION: Councilmember Young moved to pass Ordinance No. 358 adopting requirements for the protection of trees and allowing for their limited removal. Councilmember Clemett seconded.

Mayor Rose then stated that the vote on the motion would be taken after the public hearing and Council deliberations were complete. He asked Councilmember Leider to summarize the Council's work on this ordinance.

Councilmember Leider gave a brief presentation on the context and qualitative features of the draft ordinance, including that efforts leading to the current version began about two years ago with the establishment of a Tree Committee. He explained that the Tree Committee did a huge amount of leg work over many months before sending draft legislation to the Planning Commission for review at two public hearings and that the resulting revised legislation came

to the Council for final work last April.

Councilmember Leider then stated that the current version of the ordinance seeks to balance the limited protection of trees on private property while maintaining the rights of private property owners. He noted that it allows for tree removals without clear cutting, recognizes the need for flexibility on property where construction is planned, and preserves the treed environment that residents of Beaux Arts value.

Mayor Rose opened the public hearing at 7:35pm and reminded speakers to identify themselves by name for the taped record.

Hank Heckendorn commented that he considers himself a tree lover and has saved and/or planted many trees on his lot over the years; however, he does not support this ordinance and feels it is unconstitutional and onerous to property owners. He also commented that he feels the ordinance constitutes a taking and mentioned that there are more trees that are better cared for now than when the Town was platted.

Walter Scott observed that he concurs with Hank's feelings adding that he does not disrespect the "tree people" but feels the ordinance is unnecessary. He added that he enjoys a balance between trees and sun, feels the Village is already heavily treed, and urged the Council not to pass the ordinance.

Paula Dix commented that she feels the trees are an enduring identifying mark of our community, that this ordinance proves that trees are important to us, and sets up a method for slow removal. She added that she helped with the Centennial Walking Tour and heard many comments about the beauty of our trees and the oasis feeling created by our forest. She also stated that many other communities have taken a stand to protect trees or other aspects that are important to their community and its character.

Tom Stowe mentioned that he believes our trees are an asset, noting that he has a heavily treed lot, and that our trees add to the aesthetic value of private property and the Village. He remarked that a balance has been maintained over the last 100 years without an ordinance and that he sees this ordinance as overburdening, particularly since it charges a permit fee on top of the cost to remove the tree. He added that several things in the ordinance are not clearly defined, including the concept of tree units per lot. He also stated that he is concerned about the takings issue and feels the ordinance goes too far.

Bob Durr declared that one of the fortunate things we have in Beaux Arts is lots of trees on the Town's rights of way (ROW), which are owned by the Town and thus protected. He added that he also likes a sunny yard and has many flowering plants that thrive in a sunny yard. He believes that the ROW provides plenty of space for the urban forest to grow while allowing private property owners to determine whether to preserve trees on their own property. He feels that the treed character and reputation of our Town will be retained without this ordinance.

Steve Miller remarked that he is concerned that the past doesn't necessarily reflect the future accurately, because the pressure to build larger homes will push more trees down. He added

that he is concerned that the ordinance is too weak to cause preservation but will at least slow the pace of cutting. He stated that he doesn't feel constitutionality is a factor since other large cities have enacted similar legislation that is, in some case, even more restrictive. He remarked that he would like to see incentives added to the ordinance to encourage preservation and would like it to be more flexible to address the many differences between lots in Beaux Arts.

Julia Morse explained that she has participated in this process over the last two years and has noticed that changes in property ownership have led to generational gaps that don't always understand Villagers' desire to preserve our trees. She stated that she supports this ordinance because it will help meet a need for educating residents in the value of our trees, which is especially important, since it takes so little time to cut down a tree and so much to regrow it.

Ann Bowen noted that when she first moved to Beaux Arts, the trees were much shorter than they are today and that she wishes the ordinance were more focused on replacement rather than just preventing removal.

Mayor Rose asked for final comments and as there were none, he asked for questions from the floor.

Bob Durr asked about minimum tree units adding that he believes the idea may penalize small lot owners. Councilmembers Leider and Sharp explained that the idea behind tree units is to spread the burden of maintaining tree canopy over the entire Village and not just place it on those property owners who currently have large trees.

Walter Scott noted that the Planning Commission did not recommend enacting this legislation as written and asked why not. Councilmember Clemett answered that the Planning Commission wanted the Town to complete a full inventory of trees and public and private property before passing the ordinance.

Ann Bowen asked if that inventory was completed. Councilmember Leider answer the inventory was not done for reasons of cost and time.

Kris Moore asked if there is any consideration given to owners who planted trees on their lots that would allow the owners to remove those trees without having to obtain a permit and pay the fee. Councilmember Clemett answered that the ordinance does not distinguish between trees that an owner plants versus those that were on their property at the time of purchase.

Mayor Rose asked Clerk-Treasurer Spens to enumerate the emails and other written comments received in response to the public-hearing notice. Clerk-Treasurer Spens noted that as of June 28, 2008 she had received nine emails expressing support for the ordinance, one suggesting a number of changes to the ordinance, and one expressing opposition to the ordinance. Mayor Rose then closed the public hearing at 8:15pm and asked the Council for comments.

Councilmember Sharp stated that he likes that the ordinance makes it clear that trees are

important and that it slows down cutting. He added that the section discussing minimum trees units and mitigation needs clarifying.

Councilmember Eulau remarked that he is amazed at the progress the Council has made. He added that he appreciates that any property owner may remove a tree but may not clear cut a lot without mitigation and that this allows owners to see the results of their tree removals over four seasons.

Councilmember Young thanked Councilmember Clemett and the Tree Committee for their hard work and perseverance in writing and revision this ordinance and thanked the Council for their tenacity in sticking with a difficult task. He added that he feels the ordinance provides flexible protection for our trees, which is good for everyone.

Councilmember Clemett thanked the Council for their patience throughout the process and their willingness to work out those issues that seemed initially to be roadblocks. She commented that she wants the Council to be sure to spend enough time discussing tree units since too low a number will allow removal of landmark trees and too high a number discourages planting and maintenance of young trees.

Councilmember Leider stated that he thinks there should be no fee for a permit to remove a hazardous tree and no prescribed minimum tree units. He added that if a tree straddles the property line, the owner should get credit for the portion of the tree on his/her lot.

The Council then reviewed the ordinance line by line, making changes that were primarily for clarity; however, they did decide to change the phrase “private residential property” to just “Private property”, which means that the ordinance applies to all private owners, including WABA. After some discussion, it was the consensus of the Council to start with a minimum requirement for one tree unit per 1,000 sq. ft. of lot area for all property owners seeking to remove trees. It was pointed out that no owner will be required to meet that minimum requirement unless and until he/she seeks to remove one or more trees.

At the conclusion of this review, Mayor Rose asked for a motion to amend the standing motion, which was merely to pass Ordinance No. 258.

MOTION: Councilmember Young moved to amend his motion to pass Ordinance No. 358 as revised at tonight’s meeting. Councilmember Clemett seconded.

Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

AMENDED MOTION: The original motion is now amended to read: Councilmember Young moved to pass Ordinance No. 358 adopting requirements for the protection of trees and allowing for their limited removal as amended.

Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

RESOLUTION NO. 243 SETTING FEES FOR VARIOUS SERVICES AND

PERMITS: Clerk-Treasurer Spens explained that the Town’s Fee Resolution has been updated to include a fee for Tree Removal permits and that the fee is \$50 plus any additional

charges incurred by the Town for services related to the permit. It was the consensus of the Council to add a statement that this fee will be refunded if the tree is deemed to be hazardous by the Town arborist.

MOTION: Councilmember Sharp moved to adopt Resolution No. 243. Councilmember Leider seconded.

Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

2008 BUDGET VS. ACTUAL REVENUES AND EXPENDITURES: Councilmember Leider remarked that he has reviewed the Town's revenues and expenditures to date and that revenues are slightly higher than anticipated, while expenditures are slightly lower. He commented that sales-tax revenues and permit fees are the primary sources of higher revenues and that inspection fees are a bit behind schedule due to the timing of billings.

NO-WAKE ZONE AND BUOYS: It was the consensus of the Council to table discussion of this item until the September meeting.

MAYOR AND COUNCILMEMBER REPORTS:

POINTS CITIES MAYORS' MEETING: Mayor Rose reported that the primary topic of discussion among the Points Cities Mayors remains SR-520. He commented that users of the "quiet-pavement" test section seem to be pleased.

KING COUNTY BUDGET PROBLEMS: Mayor Rose reported that King County is making it easier for unincorporated areas to annex to urban areas, to reduce the County's costs for services to those areas. He cautioned that the low cost of police services we enjoy from the KC Sheriff may come back to bite us. He then stated that Representative Deb Eddy has expressed interest in eliminating small cities and that the Council must remain vigilant to pressures to consolidate.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council that there is no August meeting scheduled and that the next Council meeting will be September 9th at Steve Eulau's house.

ADJOURN: Councilmember Eulau moved to adjourn the meeting at 10:20 pm.

Councilmember Clemett seconded.

Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens
Clerk-Treasurer